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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Emilio Renova,

Plaintiff,

VS.

State Farm Mutual Automobile Insurance
Company, an Illinois corporation

Defendant.

No. CV11-0566 PHX DGC

ORDER


Plaintiffs move to amend the complaint so as to clarify that this is a contract action rather than a wrongful death action under A.R.S. § 12-612. Doc. 16. The request is timely under the case management order entered in this case. Doc. 12. Defendant opposes on the ground that the amended complaint lacks the proper plaintiffs for wrongful death actions under A.R.S. § 12-612. Doc. 18. Because the amended complaint alleges this is a contract action rather than a wrongful death action, the argument is inapposite. Defendant also suggests the amended complaint fails because it does not name as plaintiffs all parties who may seek relief from Defendant arising from the same transaction, citing Rule 19(a)(1)(A) for support. Doc. 18 at 4. Defendant fails to cite law for the proposition that Rule 19 requires compulsive joinder when not all plaintiffs in a contract action against an insurance company join the suit – or that the proper remedy is to deny amendment. The motion to amend is granted. Fed. R. Civ. P. 15(a)(2); *Foman v. Davis*, 371 U.S. 178, 182 (1962); *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 880 (9th Cir. 2001).

1 Plaintiffs also move for a stay of this case pending decision by the Arizona Court of
2 Appeals in a related matter. Doc. 17. Plaintiffs provide no information about the briefing
3 or argument status of the case before the Court of Appeals, nor any expected date for
4 decision. The Court also notes that Plaintiffs were aware of the Court of Appeals case when
5 their Rule 26(f) report was filed, and nonetheless proposed the schedule adopted by the Court
6 in its Case Management Order. *See* Docs. 10, 12. The request for a stay will be denied.

7 **IT IS ORDERED:**

- 8 1. Plaintiffs' motion to amend (Doc. 16) is **granted**.
9 2. Plaintiffs' motion to stay (Doc. 17) is **denied**.

10 DATED this 23rd day of August, 2011.

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15 David G. Campbell
16 United States District Judge
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